

*As Filed with the Town Clerk
On December 02, 2011*

**NOTICE
CERTIFICATE OF PLANNING BOARD DECISION
DENYING SPECIAL PERMIT, WAIVERS FROM SUBDIVISION
REGULATIONS, STORMWATER MANAGEMENT PERMIT, AND FORM H
PLAN**

SUBMITTED BY:

APPLICANTS:

Rivercrest Condominiums, LLC
co Craig Authier; 1421 Granby Road
Chicopee, MA 01020

DEVELOPMENT NAME:

Rivercrest Condominiums

LOCATION:

south side of Ferry Street with the frontage located
approximately 700 feet from Brockway Lane
South Hadley, MA 01075
Assessor's Map #47-Parcel #76

SURVEYORS & ENGINEERS:

Heritage Surveys, Inc.
College Highway & Clark Street
Post Office Box 1
Southampton, MA

PUBLIC HEARING:

A public hearing was opened on June 13, 2011, continued
on August 29, 2011 and September 19, 2011 and concluded
on October 3, 2011 in accordance with the South Hadley
Zoning By-Law and the Massachusetts General Laws.

This Certificate is filed in accordance with the provisions of Chapter 40A, Section 9 of
the Massachusetts General Laws and Section 9 of the South Hadley Zoning Bylaw to

show that the Planning Board at its regular meeting on November 14, 2011 by a vote of **Five (5)** out of **Five (5)** members present **DENIED** the above-referenced Special Permit, requests for waivers from the Subdivision Regulations, and the Stormwater Management Plan and Form H plans referenced herein based on the findings specified herein.

Project Description

The applicant proposed to construct 31 multifamily dwellings on this 10.831-acre site. During the course of the public hearings, the applicant reduced the number of dwellings to 27 and shortened the length of the proposed accessway such that no work was proposed to be undertaken in the Conservation Commission's 50-foot no-disturb zone.

Project Reviews – Departments/Agencies

The application and related materials were distributed to various municipal departments and agencies, some of which responded as noted below:

Building Commissioner Steve Reno: The department has no objection to the project plans as presented.

SHELD Manager Wayne Doerpholtz: The department has no objection to the project plans as presented. However, “*SHELD wishes to retain the right to review the electrical requirements as the project is further developed and those needs are further defined.”

Fire District No. 2 Water Department Superintendent Mark Aikin: Noted the following comments:

1. The water services shall be 1” not $\frac{3}{4}$ ”
2. There is no mention of fire sprinklers. If they are required by the Fire Dept. we will have many questions about them.

Board of Health Director Sharon Hart: Noted the following comments:

1. Sanitary waste facilities must be permitted with the Board of Health prior to commencing work.
2. Waste/trash haulers need to be permitted with the Board of Health prior to commencing work.
3. Perc & soils logs need to be witnessed by Board of Health.
4. Elevations on plan regarding dry wells are not correct – need corrected plan.
5. Developer to loam and seed areas that have been disturbed/exposed.
6. Developer to have water “on-site” for dust control.
7. Tracking pad on-site & maintained.
8. Project shall not have any “wet bottom” basins.

Conservation Commission Administrator Janice Stone: Provided several responses indicating the following:

- The Conservation Commission is very involved in review of the Rivercrest Condo project off Ferry Street having held their first public hearing for it on June 1.
- We have hired an engineer to perform a third party review of the stormwater plans as part of the Wetlands Protection Act review process. We will forward his comments to the Planning Board, Board of Health and DPW when we get them, so you can read and consider them as you wish.
- A major concern is the limited testing of soils for depth to groundwater, as it relates to construction erosion control and especially for effective design and functioning of the stormwater management system.
- We are also concerned about the lack of LID type stormwater management options presented, and the encroachment of the detention basin into the bylaw's 50-foot Conservation Zone.
- Please keep us informed of any changes to plans the Planning Board may request, and we will certainly do the same.

Police Chief David Labrie: The department has no objection to the project plans as presented. He also added the following comments:

- The proposed location of the access road off of Ferry Street should provide motorists with a clear line of sight in both directions.
- I assume a stop sign will regulate traffic exiting the proposed street.
- Current speed limits and traffic volume should allow for safe access to and from the proposed development.
- This proposal does not present any unusual safety concerns for vehicular or pedestrian traffic.

DPW Superintendent Jim Reidy: Noted that the department has no objection to the project plans as presented while he also provided the following comments:

- The applicant shall be responsible for the future maintenance of all stormwater, sewer, road, and sidewalk infrastructure.
- The invert of Existing SMH #1 shall be rebuilt at the applicant's expense to provide smooth flow into the manhole at the approximate grade of the existing invert.
- The developer has the option of being serviced by the Town's curbside trash/recycling collection contractor.

Fire District No. 2 Fire Chief David Keefe: Offered the following comments:

- He reviewed the plans as submitted by the town planner
- He did not find any issues that concerned him. Some time ago he met with the developers at the District No.2 Fire station to go over their plans to

develop the site, and they asked for his input so that they could address any issues raised by the Fire Department up front.

- At this point based on the plans submitted, he noted he had no comments.

Project Reviews – Peer Review

Additionally, the Conservation Commission retained Greg Newman of Newman Environmental Engineering to conduct a Peer Review of the wetlands and stormwater management elements of the project. The stormwater management portion of the Peer Review included providing information to the Planning Board as to whether or not the proposed project, as planned, conformed to the Town's Stormwater Management Bylaw.

During the course of the public hearings, the applicant made revisions to the project plans which necessitated additional review by Greg Newman. The most recent report by Greg Newman, dated September 16, 2011 and presented at the September 19, 2011 Planning Board public hearing, noted and detailed deficiencies in the Stormwater Management Plan and other aspects of the project plans related to Stormwater Management.

No further revisions to the Stormwater Management Plan were authorized or submitted by the applicant. Similarly, no subsequent Peer Review Reports were submitted to the Planning Board after September 16, 2011.

Public Comments

The Planning Board conducted four sessions of public hearings lasting over 10 hours. Most of the comments were in opposition to the application. During these public hearings, the Board received numerous written and verbal comments. The written comments were incorporated into and attached to the minutes of the public hearings. The Planning Board reviewed and considered each of the written comments and all of the comments made during the public hearings.

During the course of the public hearings, the applicants reduced the number of proposed dwellings from 31 to 27 as well as some related infrastructure changes. While a representative for the applicant indicated that they would not make further reductions, they acknowledged that the Board could make conditions as part of the Board's decision. The applicant requested that the Planning Board close the public hearing several times on September 19, 2011 and October 3, 2011.

A. Findings – Special Permit

As required by Section 9(C) of the South Hadley Zoning Bylaw, the Planning Board made the following findings in regard to the first four (the "Mandatory") standards.

- a. Be compatible in type and scale with adjacent land uses and with the character of the neighborhood in which it is located;**

The Board determined that the following definitions would guide its evaluation of the proposed project in relation to this standard:

“Adjacent” – properties which are touching the subject property.

“Neighborhood” – this area includes Ferry Street beginning at Hadley Street and extending westward, and inclusive of properties on both sides of Brockway Lane in proximity to the subject, and extending the full length of Ferry Street, terminating at Brunelle’s Marina.

“Type and Scale” and “Character” – “Type and Scale” and “Character” relate to the following:

- Spacing and Setbacks
- Buffer/screening - Greenery
- Impervious Surface
- Architectural Styles
- Density
- Massing

The Board Members found as follows:

1. Spacing and Setbacks

- The Neighborhood has single-family, free-standing residences with varied deep rear yard and side yard setbacks. Front setbacks of houses in the Neighborhood are also varied. Abutting properties typically have rear yard setbacks no less than 75 feet.
- Rivercrest Condominiums is proposed to have building setbacks of a relatively shallow dimension (approximately 25 feet) on the west side, with side yard distances between the individual dwellings of a minimal distance to “0” in cases where there are 2-5 dwellings per building. The front setbacks off the access drive are relatively shallow and uniform.

2. Buffer/screening – Greenery

- The Neighborhood and most abutting properties are buffered from each other with vegetation and landscaping.
- Rivercrest Condominiums proposal eliminates the existing “buffer” on the west side by clearing the existing vegetation and installing a drainage trench along the property and constructing buildings within 25 feet of the property line. Thus, the only “buffer” proposed for the development is in the first 200 feet off Ferry Street, where the road is proposed to be “centered”. This could be addressed through imposition of conditions.

3. Impervious Surface

- In regard to the adjacent residential properties, the Board reviewed three alternative analyses which the Town Planner provided, and accepted the “middle” analysis as the most appropriate. Thus, the Board found that 8.45% of the surface area of the adjacent residential properties were impervious (driveways, buildings, etc.).
- Rivercrest Condominiums is proposed to be approximately 16.93% impervious (if one assumes that the reduction from 30 dwellings to 27 dwellings has a corresponding 10% reduction in the impervious surface). Thus, the portion of the Rivercrest Condominiums site which is proposed to be impervious would be at least twice that of the abutting residential properties.

4. Architectural Styles

- The Neighborhood has a variety of architectural styles including: Cape, Farm, Colonial, Ranch, Duplex, Conventional, Modern/Contemporary, and Raised Ranch according to the Board’s observations and the Assessor’s Field Cards, submitted by the applicant during the public hearings.
- The Rivercrest Condominiums proposal has a generally uniform style – modern/big Ranch.

5. Density

- The Neighborhood has an overall density of less than one dwelling per acre.
- The Rivercrest Condominiums proposal (as most recently revised to 27 dwellings) has a density of 2.49 dwellings per acre, which is nearly triple that of the Neighborhood.

6. Massing

- The Neighborhood is characterized as predominately single-family, 1-2 story, free-standing residences with approximately half of the lots appearing to have detached garages. Siting on the individual lots is varied, as reflected by the variation in building setbacks. The detached garages afford variations in placement of the structures and the driveways as well as opportunities to “break up” the building masses.
- The Rivercrest Condominiums proposal is less varied than the Neighborhood, with 1-2 story structures and attached garages. With the attached garages and attached dwellings, the development creates a much larger building footprint and building mass than is seen in the Neighborhood.

Overall Assessment: The Rivercrest Condominiums proposal as submitted and revised does not meet Special Permit Standard A.

However, further comments indicated that the Board believes a Multi-Family development could meet this Standard but would need to respond to the Spacing and Massing character of the Neighborhood, albeit at a different and denser scale and with greater compatibility with the Neighborhood architectural styles.

b. Be in harmony with the general purpose and intent of this By-Law;

The Board members noted that among the objectives of the Zoning Bylaw are “to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land, to avoid undue concentration of population; to facilitate the adequate provision of transportation, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town by considering the recommendations of the master plan; and to preserve and increase amenities by the promulgation of regulations to fulfill said objectives.” (*Section 1 of the Zoning Bylaw*)

The Board Members found as follows:

1. Generally, in regard to infrastructure concerns, the Rivercrest Condominiums conforms to the Standard.
2. HOWEVER,
 - In terms of stormwater management, the most recent review by the Peer Review Engineer was that the Rivercrest Condominiums proposal did not conform to the Town’s Stormwater Management Bylaw and had some unresolved issues. Generally, it was felt that these issues could be resolved with further modifications of the development plan’s stormwater proposals.
 - The Conservation Commission has not completed its work; therefore, no determination as to “conservation of natural resources and the prevention of blight and pollution of the environment” could be made at this time.
3. While there are various aspects of the Master Plan which may relate to this proposal, the Board determined that the most directly pertinent Recommended Action is LUCD 2-2-4 (Under Land Use and Community Design Goal 2, Objective 2-2). This Recommended Action states

“The Planning Board shall encourage development of multi-family and mixed-use housing developments only in areas identified in the South Hadley Community Development Plan as “Potential Focus Areas” for such development and compatible with the Land Use Area Vision Statements as detailed in the Master Plan.”

The Board found that while the proposed site may be within a Potential Focus Area, in absence of a Land Use Area Vision Statement for the Ferry Street corridor, the proposed development is not compatible with the Neighborhood; therefore, it is not consistent with this Recommended Action of the Master Plan.

Overall Assessment. The Rivercrest Condominiums proposal as submitted and revised does not meet Special Permit Standard B.

c. Constitute no significant hazard to abutters, pedestrians, or vehicles; and

The Board Members found that the proposed Rivercrest Condominiums, as submitted and proposed, would constitute a hazard to residents, abutters, pedestrians (particularly school children who may reside in the residences), and the traveling public due to the following:

- Absence of a sidewalk with lighting – particularly in the first 400 feet off Ferry Street
- Lack of planning for a place in which to remove and place snow from the access drive and the individual driveways
- Low drainage location with spot flooding (according to the Peer Review Engineer)

The Board Members found that these conditions individually constitute a hazard, and collectively constitute a significant hazard.

Overall Assessment. The Rivercrest Condominiums proposal as submitted and revised does not meet Special Permit Standard C.

However, further comments indicated that the Board believes that with revisions to the project plans or a different site design, these hazards could be alleviated.

d. Constitute no nuisance by reason of excessive air, water or noise pollution, or by structures or accessories which are deemed visually objectionable in light of prevailing community standards.

The Board Members found that the proposed Rivercrest Condominiums, as submitted and proposed, would NOT constitute a nuisance as defined by this Standard.

B. Findings – Stormwater Management Permit

Based on the most recent report (dated September 16, 2011) by Greg Newman of Newman Environmental Engineering, there were a number of aspects in which the proposed plans did not comply with the Town's Stormwater Management Bylaw. While Mr. Newman noted that various aspects of the deficiencies could be remedied, no further revisions to the plans, particularly the Stormwater Management Plans,

were submitted to Mr. Newman for review. Therefore, the Planning Board finds that the proposed plans do not conform to the Town of South Hadley Stormwater Management Bylaw.

C. Findings – Form H Plan

The proposed Form H Plan fails to conform to the following requirements:

- Zoning – the use requires a Special Permit for Multifamily. This Special Permit has not been granted; therefore, the plan depicts a use which is not consistent with the Zoning Bylaw requirements.
- Subdivision Requirements – length of deadend roadway (7.01 of the Subdivision Regulations). The plans depict a development with a roadway in excess of the 800 maximum length of deadend roadway as allowed by Section 7.01 of the Subdivision Regulations. A waiver was requested, but the Planning Board did not approve the request.
- Subdivision Regulations – sidewalks (8.05 of the Subdivision Regulations). The plans do not depict sidewalks on either side of the proposed accessway as required by Section 8.05 of the Subdivision Regulations. A waiver was requested, but the Planning Board did not approve the request.

D. Incorporated Materials

The following materials are incorporated into and serve as the basis for this decision:

1. Application Materials and Revisions Incorporated. All application materials (including subsequent revisions thereto) submitted to, and received by the Planning Board as part of the applicant's "Form SP – Application for Special Permit" and "Form H – Application for Approval of More Than One Building for Dwelling Purposes per Lot" received by the Town Clerk on April 19, 2011 and other materials referenced herein are hereby incorporated into and made part of this Decision. Said application and related materials specifically include, but are not limited to, the following:
 - a. Plan Sheets 1 through 9, labeled "Form H Application, Section 6.00, More than one building for dwelling purposes per lot Site Plan showing 31 units" prepared by Heritage Surveys, Inc. dated April 15, 2011.
 - b. Revised Plan Sheets 1 through 10, labeled "Form H Application, Section 6.00, More than one building for dwelling purposes per lot Site Plan showing 31 units" (note that some sheets are labeled referencing "showing 30 units") prepared by Heritage Surveys, Inc. with varying revision dates through August 24, 2011.
 - c. Sketch of revision to Overall Site Plan (Sheet 3 of 10) showing 27 units and other revisions submitted as part of the October 3, 2011 Public Hearing.
 - d. Narrative and accompanying attachments submitted as part of the aforementioned applications received on April 19, 2011.
 - e. Stormwater Management Report prepared by Heritage Surveys, Inc. dated April 15, 2011.
 - f. Reports titled "Revised Roof and Yard Drainage Calculations" and "Revised Driveway and Roadway Drainage Calculations" prepared by Heritage Surveys,

- Inc. with a revision date of August 16, 2011 and received as part of the August 29, 2011 Public Hearing.
- g. August 30, 2011 email from Mark Reed of Heritage Surveys, Inc. including the attached excel spreadsheets that show the Lot Coverage data for the proposed project site and Lot Coverage data for Abutters within 300' of Rivercrest Condominiums.
2. Minutes. Minutes (and all materials referenced in the minutes) of the following hearings and meetings regarding this project are also incorporated into and made part of this Decision:
- a. Planning Board public hearing held on June 13, 2011, August 29, 2011, September 19, 2011, and October 3, 2011 (inclusive of all materials submitted and/or discussed during the public hearings).
- b. Planning Board meeting held on October 3, 2011, October 17, 2011, November 14, 2011, and November 28, 2011.
3. Comments - Departments. Written department review comments (as described previously) are also incorporated into and made part of this Decision.
4. Comments – Peer Review. The Peer Review Reports (including, but not limited to the September 16, 2011 Memorandum) submitted by Greg Newman of Newman Environmental Engineering are incorporated into and made part of this Decision.

In accordance with the provisions of Chapter 40A, Section 9, M. G. L., a copy of this Certificate is sent by certified mail to the applicant as a notice of the action taken by the Planning Board.

ATTESTED AND AFFIRMED

S/ As Filed on December 02, 2011
Joan Rosner, Chairman
South Hadley Planning Board

December 02, 2011
Date

Cc: Town Clerk (Date Filed: _____)
Selectboard
Building Commissioner
Rivercrest Condominiums, LLC
Attorney Joel Bard, Kopelman and Paige